

# STATE OF MICHIGAN.

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No. 1.

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LEGISLATURE, 1857.

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## GOVERNOR'S MESSAGE.

*Fellow Citizens of the Senate and House of Representatives :*

I have again taken the oath required by the Constitution, and promised faithfully to discharge the responsible duties of Chief Magistrate of the State. I have been called to this high post by a renewed manifestation of the confidence of the people, expressed in such an emphatic manner as to awaken the most grateful sense of my obligations to them and an earnest desire to devote all my energies to the interests of our beloved State, and the welfare of its inhabitants.

In communicating with you in conformity to the requirements of the Constitution, it is cause for congratulation, that the State for the last two years has rapidly advanced in population, in wealth, in the development of its resources, in educational facilities, and in all the elements of progress, which affect the prosperity and happiness of the people, and tend to greatness and renown. A kind and beneficent Providence has also showered upon us his mercies and his blessings. No pestilential or epidemic disease has visited our borders; and unusual good health has prevailed in every section of the State. The agricultural staples have been produced in abundance—all the branches of trade and commerce, and business have prospered—a steady demand has existed for all the pro-

ducts of industry and skill at highly remunerative prices—a sound currency has uniformly prevailed, and the laborer has been sure of his reward. A religious community should not withhold a tribute of gratitude to the Author of all good for this rich bestowment of his bounties

#### STATE FINANCES.

The reports of the Auditor General and Stato Treasurer will give you a detailed and exact account of the financial condition of the State. The amount of money in the hands of the State Treasurer on the 30th Nov., 1854, was,..... \$553,004 08

And the receipts for the year ending Nov. 30, 1855,  
from all sources, were..... 588,396 93

So, that the available means for the year amounted to \$1,141,401 01

The expenditures during that period, amounted to.. 624,777 88

Leaving in the treasury Nov. 30, 1855, ..... \$516,623 13

The receipts into the treasury for the year, ending  
Nov. 30, 1856, were..... 511,271 70

So that the available means for the last fiscal year  
have been ..... \$1,027,894 83

The expenditures during the last year have been .. 639,879 06

Leaving a balance with Treasurer on the 1st Dec.  
last, ..... \$388,015 77

Of the amounts charged in the expenditures, there  
have been paid in the years 1855 and 1856, of the prin-  
cipal of the public debt,..... 140,327 12

And of the interest on the public debt, including  
that paid on the trust funds, ..... 253,506 12

This interest has been increased in 1856 over 1854, 47,855 33

On account of the constant additions to the principal of the  
trust funds, and the new bonds issued for the unadjusted  
portion of the 5,000,000 loan, which interest was  
formerly added to the principal.

Under the act passed by the last Legislature, requiring  
the State Treasurer to require five per cent. interest upon  
the moneys of the treasury, deposited in banks, there has  
been received in the year 1855; for interest,..... 29,928 43

And in the year 1856, ..... 21,699 34

Making in the two years, ..... \$51,627 77

While the amount received into the treasury in the two preceding years was only, ..... 1,553 86

The large disbursements from the treasury have been on account of appropriations made by the last Legislature for the Asylums in process of erection at Kalamazoo and Flint, for additional buildings in the State Prison, for the House of Correction for Juvenile Offenders, and for the Agricultural College, while the ordinary expenses of the State Government have yielded to a rigid system of economy, and been very materially reduced. The whole amount allowed and paid by the present Board of State Auditors up to the 1st of Dec. last, being a period of one year and eleven months, was, ..... \$82,220 49

While there was allowed and paid by their predecessors in the month of Dec., 1854, ..... 68,071 35

Under the law passed Feb. 12, 1855, requiring the holders of the part-paid 5,000,000 bonds, to present them to be adjusted, there has been refunded, ..... \$1,708,235 00

And there only remains of that portion of our indebtedness in bonds unliquidated, an amount equal to, ..... 124,392 55

It is believed that these bonds will soon be presented to the State Treasurer and new bonds issued therefor. This happy adjustment of the part-paid bonds of the five million loan which have so long hung over the State, enables us to see clearly the exact present condition of our State indebtedness.

The funded and fundable debt of the State is as follows:

University Bonds, due July, 1858, .....	99,000 00
Detroit and Pontiac Railroad Bonds, due July, 1858, ..	97,000 00
Penitentiary Bonds, due January, 1859, .....	20,000 00
Penitentiary Bonds, due January, 1860, .....	40,000 00
Internal Improvement Warrant Bonds, interest stopped and payable on demand, .....	5,150 00
Full paid five million loan Bonds, due January, 1863, ..	177,000 00
Adjusted Bonds, due January, 1863, .....	1,708,235 00
The part paid five million loan Bonds outstanding when funded, will amount to .....	124,392 55

Outstanding Internal Improvement Warrants, . . . . .	4,158 35
Total amount of State indebtedness, Nov. 30, 1856, . . .	<u>\$2,274,935 90</u>

It will be perceived that there will fall due, of these bonds, on and before the 1st of January, 1859, . . . . .	216,000 00
On the 1st of January, 1860, . . . . .	40,000 00

And the remainder on the 1st of January, 1863. So that our entire State indebtedness will become due within a period of six years. No provision has been adopted in conformity to the requirements of the constitution to create a sinking fund for the redemption of this debt. It is, perhaps, too late now to undertake to provide for its payment by this mode, but it is our duty to adopt such measures as will make certain provision for the payment of the debt as it falls due. Although the surplus moneys in the hands of the State Treasurer have earned five per cent., and brought a handsome sum into the treasury, yet it must be recollected that the State pays an interest of seven per cent. to the several trust funds to which this money belongs. A proper foresight and economy would therefore seem to dictate that all the surplus money on hand should be employed in the redemption of our debt, and the purchase of our stocks, even before they fall due.

In directing your attention to this important subject I trust that such measures will be adopted as without excessive or burdensome taxation, will soon relieve us from all indebtedness on account of the five million loan, with which in an evil hour our young and prosperous State became encumbered, to be remembered only, as a warning against future rashness or improvidence.

I concur entirely with the Auditor General in his recommendation for amendments, in the manner of assessing property, and in levying and collecting the taxes. All the property in the State should bear its just proportion of its burdens, and your action will be required to make the system more perfect, compelling it to do so.

#### STATE PRISON.

The Report of the Inspectors, Agent and other officers present a minute and accurate account of the condition financially, and otherwise, of the State Prison. I invite your attention to the suggestions contained therein for legislative action as worthy of your consideration.

The rapid increase in the population of the State, and especially in the cities and large towns where crime mostly prevails, has been attended with a corresponding increase in the number of convicts in the State Prison.

On the 1st of December last, the Prison had 349 convicts, being an increase of 53 in 1855, and 45 in 1856.

A frequent personal examination of the Prison within the last two years enables me to state, that there has been a great improvement in its character for cleanliness, order and discipline, as well as economy, taking into consideration the increased price of fuel and provisions, which enter so largely into prison expenses.

The greatly enhanced prices, in the new contracts for the labor of the prisoners, is an indication of confidence in its management and discipline. Under the old contracts from 50 to 80 men were employed in making wagons at 38 cents per day; under the new, the price has been increased to 53 cents. Under the old contract from 80 to 100 men were employed in manufacturing agricultural implements at 31 cents per day, under the new  $56\frac{1}{4}$  cents per day for the same number of men is obtained; under the old contracts 20 men were employed making shoes at 35 cents per day, under the new from 25 to 40 men are let at 56 cts., per day, making a difference in favor of the State on these three contracts of about \$14,000 per annum.

A large number of the convicts have been employed during the past two years, upon the new buildings, which the increased number of prisoners demanded, and which were authorized by your predecessors, and the labor of quite a number of them will necessarily be diverted to the same purpose for the coming year. When the necessary buildings for the accommodation of the prisoners are completed, it is believed that with proper economy the labor of the convicts can be made to pay the entire expenses incident to the management and control of this unhappy and dangerous class of our population.

The confinement of the Female Convicts in a separate prison, and the employment of a matron to superintend them, has been the occasion of great improvement in the conduct and habits of that unfortunate class. They are neat in their persons, and assiduous in their employment, and it is to be hoped, that under the care and discipline of their worthy matron, their morals and behavior will give evidence of



a permanent reform. The Solitary Cells have been completed, and the prisoners sentenced for life have been removed into them.

A prejudice has existed in the minds of a portion of the community, against employing convicts at labor which would bring them into competition with our ordinary mechanical trades. It would be not only a great expense to the State, but a great injustice to that degraded class of men, to shut them up for a period of years without employment. Nor can it be doubted that it is a great kindness to these men, who have subjected themselves to punishment by resorting to crime, to teach them some trade or occupation by which they can obtain an honest livelihood when the term of their sentence has expired. And it is believed that no public policy is violated by so doing.

We have made but slight progress as yet toward the great end of punishment, which is the reformation of the criminal. An important means for the attainment of this end, is to fit them for employment, by which they can maintain a useful and honorable position in society. I therefore concur with the Inspectors in the propriety of the adoption of measures for the amendment of the Constitution upon that subject.

Your attention is also especially directed to the suggestions of the Agent, that a strong incentive would be furnished for the amendment and good behavior of the convicts, by authorizing the Agent to diminish the period of their sentence a day each month, for every month their conduct is entirely approved. Quite a proportion of the men incarcerated in the Prison are far from being hardened in crime, but are rather the dupes of more wicked and designing men. Such an inducement would increase their self-respect, and might be the means of a thorough reformation.

One of the most unpleasant and painful duties imposed upon the Executive, is to examine and decide upon applications for pardon. It is one of the necessary incidents attendant upon the commission and punishment of crime, that innocent friends suffer more than the guilty convict. The public interests require that punishment, without being too severe, should be certain; and when clemency has been invoked in behalf of a condemned husband or son or brother, in most cases, though it may have excited the deepest sympathy, it has been declined, because it was deemed improper to interfere with a due course of law. In every case in which I have granted a pardon, so far as the facts have come to

my knowledge, the conduct of the recipients has thus far justified the exercise of clemency, and many of them has been restored to a respectable position in society. I shall transmit to you, in a separate communication, the names of those to whom I have granted pardon, and the reasons therefor.

#### ASYLUMS.

The Report of the Trustees of the Michigan Asylums will give you a minute account of the expenditure of the appropriation made by the last Legislature, and of the progress in the construction of the buildings to accommodate that unfortunate class of our population.

One wing of the Asylum for the Deaf Mutes and the Blind, at Flint, has been completed, and has been occupied since the first of May last.

There are fifty-one deaf mutes and fifteen blind, enjoying the benefits of the Institution, and making rapid progress in acquiring an education under their ardent and accomplished teacher. Additional appropriations are asked for the completion of the buildings. It is the dictate of sound policy as well as humanity, that these great charities should be made effective for the accomplishment of the truly benevolent and praiseworthy objects for which they were established, at as early a day as possible, and I doubt not you will make such appropriations as the condition of the Treasury will admit.

#### HOUSE OF CORRECTION.

Under the act of 1853, which provides for the establishment of a House of Correction for Juvenile Offenders, the Board of Control have erected and put in operation a building for that purpose. It has now twenty-one inmates, sent there for crime and vagrancy. The main object of the Institution is to reform and fit for usefulness, an ignorant, neglected, and degraded class of children and youth. To accomplish this, strict discipline, thorough mental culture, an excitement of the higher moral faculties, and such firm, but conciliatory treatment, as will inspire self-respect, must be exercised, and this can seldom be done by their confinement for a short period of time. I therefore invite your attention to the amendments proposed to the law by the Board of Control, and deem their adoption as necessary to the more perfect working of the institution. Similar establishments in other States have been attended with the most beneficial results, and we may reasonably

anticipate from this, the reclamation, and restoration, to usefulness in society, of many an erring wanderer, whose misguided steps would otherwise inevitably lead to ruin.

#### EDUCATION.

I shall lay before you the report of the Superintendent of Public Instruction, to which I invite your special attention. Its details communicate in an authentic form, the gratifying fact, that simultaneously with the rapid progress which the State has made in population and in the development of her resources has her educational interests advanced. The necessity for further effort has taken a deep hold upon the popular mind, and you will be called upon to provide additional facilities for the acquisition of knowledge.

The suggestions of the Superintendent in relation to the absolute necessity, that provision be made for the intermediate grade of education between the primary school and the University, is worthy of your earnest consideration.

The University at Ann Arbor has steadily advanced in numbers and in the popular favor. The income of the munificent and well selected grant of lands made by Congress for its endowment, furnishes a free education to all who chose to resort to its halls, and it must soon acquire a position as the equal of the first Universities in the land. Soon after its organization, a stock of one hundred thousand dollars was issued by the State, to raise money to construct buildings for Colleges and professors' houses, to be redeemed out of the sale of the lands, granted by Congress, "for the support of a University, and for no other purpose whatsoever."

The act authorizing the issue of the stock, pledged all the disposable income from the University fund for its redemption.

This has been deemed such a perversion of the income of the fund from its original design, that the Legislature for several years past has authorized the payment of the interest from the general fund. The principal is now about becoming due, and I respectfully recommend that it be paid from the treasury of the State, so that this noble institution, in the prosperity of which every citizen of Michigan feels a deep interest and pride, shall be entirely relieved from embarrassment and debt.



The high character of the Normal School for its efficiency in discipline and mental culture, has been well sustained. The primary schools in every section of the State have felt the benefits of the judicious training which it has given to the great number of teachers it has educated, and fully attest the wisdom of its establishment.

In whatever section of the State we may chance to travel, convenient and well constructed, and even costly school houses, attract the attention, and furnish conclusive evidence that our people justly appreciate the importance of the *primary school*, the institution in which much the largest portion of our youth must acquire the education which is to fit them to "know, enjoy and discharge their rights, privileges and obligations as citizens of a free State." The returns show that on the last Monday in September, 1855, there were 3255 organized school districts in the State, in which there were 187,123 resident children between the ages of four and eighteen years; that there were employed in that year 5078 qualified teachers, of whom 1600 were males and 3478 females; that schools were taught in these districts on an average 5 6-10 months, and that 142,334 children were taught therein. There was apportioned to the several townships for the use of the primary schools in May, 1856, \$99,938 76, the interest on the Primary School Fund for the preceding year, being at the rate of fifty-three cents per scholar. It is gratifying to know that there has been a steady increase in the income from this fund, which divided only thirty-four cents per scholar in 1850.

No one now has the hardihood to question that property is safer and better protected in proportion as it contributes for the universal education of the people. I trust, therefore, that you will not fail to make provision by which the requirements of the constitution shall be enforced that there be a *free* school in each district at least three months in each year.

#### AGRICULTURAL COLLEGE.

The Legislature of 1855 made provision for the establishment of an Agricultural College, and in conformity to their enactment, a farm of about 700 acres has been purchased within three miles from the Capitol, and one of the wings in the design for the College buildings, one hundred feet long by fifty feet wide, and three stories high, has been completed. There has also been erected a fine building for a boarding

house, arranged to accommodate eighty boarders. The Board of Education has given public notice that the Institution will be opened on the first Wednesday of April next. Michigan is eminently an agricultural State, and her enterprising and intelligent farmers may congratulate themselves that a College devoted particularly to the wants and interests of the agricultural class will soon be in successful operation where their sons can be thoroughly trained in every branch of knowledge requisite to make them practical, scientific, educated, and accomplished farmers. You will be able, personally, to inspect the farm and buildings, and as you are made familiar with the plan of education which the Board has devised, I cannot doubt you will co-operate with them in giving complete efficiency to this long neglected, but most deserving department of education.

#### SWAMP LANDS.

In my Message to your predecessors I called their attention to what I deemed the defects of the Statute of the 28th Jan., 1851, "To provide for the sale and reclaiming of swamp lands granted to the State, and for the disposition of the proceeds," but they were obliged to legislate upon so many other pressing matters, in their brief session of forty days, that no measure was perfected upon this subject. The existing statute places this large grant of lands, amounting to nearly 6,000,000 of acres, under the control of the Commissioner of the Land Office and authorizes him to sell them. It also provides that the money arising from the sale shall be and remain a fund for the purpose of "reclaiming said lands, in conformity to the provisions of the grant." To this mode of sale and disposition of the funds, it appears to me there are very serious and strong objections. The State should enter into no implied contract with the purchasers of these lands, that they shall be drained with the proceeds of the sales. The creation of such a fund would of itself be a temptation to dishonest legislation. Combinations of purchasers would surround the Legislature, and judging from all past experience, but little good would be accomplished, if the moneys were appropriated, in accordance with their demands.

These evils have appeared so formidable and certain, that it has been thought best to withhold the lands from sale until additional enactments could be made, and no lands have been brought into the market within the last two years.

I invoke your deliberate and earnest attention to this subject. Its importance demands that all local and private considerations should give place to the great public interests which the magnitude of this question involves. If wise legislation prevails, it is believed, that complying in good faith with all the conditions of the grant, the foundations of a fund will be laid, the benefits of which will be felt, and appreciated by future generations as well as the present, and be co-extensive with the existence of the State. To what nobler purpose can this fund be devoted than that of education? Michigan has already acquired a high character for her efforts in this direction. A deep interest is felt upon the subject, and its benefits are highly appreciated by all classes. Much aid is already derived from the Primary School and University funds. And if to these there could be added another fund, the avails of which could be applied to other educational establishments, a demand for which is seriously felt, all classes of community would be very fully provided for, and education could be made entirely free and universal.

It is believed that any local or temporary disposition of these lands would come far short of producing such beneficial results. And we are not wanting in experience to guide us to correct conclusions upon this subject. In September, 1841, five hundred thousand acres of land were granted by Congress to this State, for the purposes of internal improvement—great care was had in their selection, and they now combine some of the choicest lands in the State, whose aggregate value cannot be less than from three to five millions of dollars—instead of creating a fund from the proceeds of their sale, they were granted directly for various local purposes, and the State has now nothing to show for one of the largest bounties of the government. There would be no justification for disposing of these swamp lands in a similar manner—and I trust that wiser councils will now prevail. After mature deliberation I do not feel able to recommend a better mode for their disposition than that suggested in my message to your predecessors: Namely, that they be sold in limited quantities to such as will actually occupy and improve them, subject to be drained by the purchaser. And that proof of actual occupancy and improvement be made a condition for the delivery of a complete title from the State. Should you concur with me, that the proceeds of these lands should constitute a fund for educational purposes, the particular direction to which the income should be

applied would become an important inquiry, and I would respectfully suggest that the Agricultural College, additional Normal Schools, and Seminary of the highest grade for the education of young ladies, are particularly deserving of the attention and fostering care of the Legislature. These are important constituents of a connected educational series, and would render the system much more perfect and complete.

I commend to your attention the suggestions of the Commissioner of the Land Office, whose experience has discovered defects in the working of the law relative to both the school and swamp lands.

#### ST. MARY'S SHIP CANAL.

The St. Mary's Ship Canal, after a careful examination by the Board of Control in May, 1855, was accepted by the State, and the lands appropriated by the General Government for its construction, were transferred to the contractors, by the issuing of Patents from the Land Office. This noble work, which so facilitates the commerce with the rich mines and fisheries of Lake Superior, has been in successful operation for the last two years. The tolls received from it have been sufficient to pay for its superintendence and repairs, to which the State is limited by the conditions of the grant for its construction. On account of the high latitude in which it is situated, and the immense volume of water, being the entire outlet of Lake Superior, pressing upon its banks, additional safeguards in the opinion of the Superintendent are necessary to avoid damage on the opening of navigation, which the deep frosts of winter may occasion. As this is eminently a National work, constructed by the means of a liberal grant of lands from the General Government, and only committed to the care and supervision of the State, from which she can derive no revenue, I submit for your consideration the expediency of memorializing Congress for an appropriation of the amount deemed necessary by the Superintendent to make the work permanent and secure. It is the dictate of economy and prudence to provide against every possible danger to which this important and expensive work may be exposed.

#### GRANTS OF LAND BY CONGRESS.

I transmit herewith an act of Congress passed on the third day of June last, "making a grant of alternate sections of the public lands to the State of Michigan, to aid in the construction of certain railroads in

aid State." To avail ourselves of the benefits of this grant, legislation on your part will be necessary.

The State is prohibited, by the Constitution, from embarking in any work of internal improvement, but provision can be made to fix definitely the lines of the several roads, to select the lands, and to grant them upon such terms as your wisdom shall dictate, to regularly organized companies, to aid them in the construction of the roads. The completion of railroads upon these lines is of the highest importance to the State, as it would add greatly to the population, wealth, activity and commerce of every section, but especially would it aid in the development of the rich resources of the northern portion of it, in which, it is believed, richer and more valuable supplies of copper, iron, and lumber are to be found, than in any other part of the United States, and perhaps in the world.

#### VILLAGE CHARTERS.

Quite a proportion of the volume of the Session laws of the last and preceding Legislatures, is made up by the enactments of charters for villages.

To save your time to the important public matters to which your attention will be called, I recommend the adoption of a general law, by which all villages can become incorporated. A great saving of expense would also be made in printing and otherwise, if such a course should be adopted.

#### JUDGE OF PROBATE.

The compensation to the Judges of Probate in the several counties is made up by fees, taxed upon the estates administered upon, before them. Great complaint is made of the excessive costs which are attendant upon the transaction of that kind of business, mostly borne by a class of persons but poorly able to pay such expenses. I submit to your judgment whether it would not be better to fix a salary to the office of Judge of Probate, proportionate to the population of the several counties, and that until the meeting of your successors the fees collected by them be paid into the County Treasury, and an accurate statement thereof reported to the Board of Supervisors. Such a course would furnish data for any future legislation which might be deemed necessary in relation to the fee bills of that office.



## SUPREME COURT.

The Constitution provides, Art. VI, Sec. 2, that "after six years, the Legislature may provide by law for the organization of a Supreme Court, with the jurisdiction and powers prescribed in this Constitution, to consist of one Chief Justice and three Associate Justices, to be chosen by the electors of the State." It is further provided that the judges of the Supreme Court shall be so classified that but one of them shall go out of office at the same time, and that their term of office shall be eight years. It is presumed that the intention was to provide for constituting this tribunal, whenever the growth and condition of the State, should so multiply the business of the Circuit Courts, as to give them ample employment. There is reason to believe that such a period has now arrived. Aside from this pressing consideration, the establishment of a Supreme Bench, wholly independent of the Circuit Courts, is a marked benefit, admitting of no question. The rights of the public, the interests of suitors, and the requirements of justice, are concurrent in pointing to the wisdom and expediency of this step.

The commencement of a new judicial term of the Circuit Courts, is deemed to be a fit period for the constitution of an independent Supreme Court, so that the election of Judges thereof, may proceed at the same time with that of the Circuit Judges, and that the terms of office, respectively, may correspond, so far as is practicable, under the Constitution.

The testimony of the Circuit Judges, of the bar, and the evidence furnished by the dockets and calendars of the Circuit Courts, especially in the first, second, third and fifth circuits, unite upon the point that the Judges respectively, find ample employment for the whole of their time between the active duties of the circuits and the necessary chamber duties, and in investigation necessary to the decision of questions of practice, interlocutory motions, and final decisions ; while in the seventh and eighth circuits, a large portion of the time of the Judges is taken up by necessary travel through regions of country where the means of conveyance are both slow and laborious.

Section II, of the Article of the Constitution above referred to, provides that a term of the Circuit Court shall be held, at least twice in each year, in every county organized for judicial purposes, and four in each year, in all counties containing ten thousand inhabitants. The rapid

increase of the population of Michigan, within the past four years, has thrown many of the counties above the limits of ten thousand inhabitants, and has increased the duties of the Circuit Judges correspondingly. A glance at the official Census of 1850, compared with an estimate to be obtained by approximation, from the popular vote of November 4th, 1856, shows that the following counties have risen above the limit of ten thousand inhabitants, viz.: Allegan, Barry, Clinton, Eaton, Ingham, Ionia, Lapeer, Ottawa, Saginaw, Shiawassee and Van Buren, whereby the duties of the Circuit Judge of the fifth circuit have been increased by two additional terms in each year, in Allegan, Eaton, Van Buren; those of the Judge of the eighth circuit, by two additional terms, in each of the counties of Barry, Ionia, Ottawa and Clinton; those of the Judge of the fourth circuit, by two additional terms, in the county of Ingham; those of the Judge of the seventh circuit, by two additional terms, in each of the counties of Lapeer, Saginaw and Shiawassee. In addition to the above, the following new counties have been organized for judicial purposes, since the adoption of the present Constitution, each requiring two terms of the Circuit Court, annually, viz.: Sanilac, Montcalm, Oceana, Grand Traverse, Newaygo, Cheboygan, Manitou, Gratiot, Midland, Mason and Manistee. It would seem then, that an intelligent regard for the character of the jurisprudence of the State, the prompt, thorough, and just enforcement of law, both civil and criminal, call alike for the establishment of an independent Supreme Judiciary, agreeably to the provisions of the organic law of the State.

Reports of the decisions of courts of last resort, in all countries, are among the recognized tests of relative advancement, civilization and enlightenment. These Reports become interchanged between the different States, and they are consulted, wherever the Common Law of England is the standard. The value of legal decisions, as adjudications making the application of general principles, to cases arising, depends wholly upon the learning, research, and legal skill of the tribunal which originates them, and they are esteemed of authority, or the reverse, in proportion as they evince these qualities. Just and intelligent decisions are constantly adding to the great common stock of legal knowledge, while crude, hasty and weak opinions do but "darken counsel, by multiplying words without wisdom."

While as a State it is well to cherish a just and proper regard for the

standing of the Supreme Judiciary in the community at large, yet, our first and most urgent duty is to the People of Michigan, to secure to them the blessings of a pure and intelligent administration of public justice, in order to both of which, it is requisite that the Court of last resort should be left entirely free, to devote their time, and their full abilities, to the discharge of those duties alone, which properly belong to a Supreme Judicial tribunal.

#### REPRINT OF LAWS.

I have been notified by the Secretary of State that the session laws for each year since 1846, are out of print. The rapid settlement of the northern part of the State, and the organization of new townships, has created an unexpected demand for them, and no further copies can be supplied. It is believed that before the meeting of the next Legislature, one hundred, or one hundred and fifty additional townships will be organized. It would be difficult, if not impossible for their township officers and magistrates to transact business without access to the statutes. I submit for your consideration whether in this exigency provision ought not to be made for the collection and arrangement of the laws now in force, and for their publication.

#### BANKS.

An act to authorize the business of banking, was passed by the last Legislature, but as it did not reach me until after their adjournment, I had no opportunity to state the reasons which induced me to withhold my signature and approval.

Like most new States, ours has been settled by an active, energetic and enterprising class of men, who are desirous of accumulating property rapidly. It is an incident to the settlement of all new countries, from which our State is not exempt, that there is a deficiency of capital to facilitate the conduct of its business, and a vague notion prevails that credit can be made to supply this deficiency. Whenever an opportunity has been obtained, a class of restless borrowers have resorted to banking, with the vain hope that the necessity of capital could thus be supplied. Improper means are resorted to, to force into circulation a large amount of paper currency by the establishment of banks remote from places of business, and by exchanging or otherwise obtaining a circulation remote from the place of redemption.

The people of Michigan have been made to feel keenly and bitterly the inevitable results of these schemes, and it is no matter of surprise that the laboring and producing classes, those who create the wealth, believe that rather than be swindled periodically by fraudulent banks, they would be far better off with no banks at all. A want has undoubtedly been felt by our commercial men for bank facilities, and their business has frequently been restricted because they could not obtain them, but it is a question whether this inconvenience to a few, has not been more than overbalanced by the sound currency which the many have received in exchange for their labor or their produce. It is a noticeable fact, that the last two years are the only ones in the history of this State, in which the people have not been swindled by fraudulent banks. You will undoubtedly be told that the business wants of many localities in this State require the establishment of banks, and will be urged to pass a bill to authorize them to go into operation. If so, I trust you will concur with me in the propriety of providing such safeguards as will secure the community against bankruptcy and fraud. In this most important matter, they have a right to look to you for protection.

It is urged in favor of the establishment of local banks that a depreciated currency would be thereby driven away, and a sounder take its place, but this is against all experience.

Banks do not desire a large circulation in their immediate vicinity, and they frequently become the agents of putting into circulation a depreciated or fraudulent currency, remote from the place of redemption. To guard against this, I would respectfully suggest if you should frame a bill, that all banks be prohibited from paying out any but their own notes from their counter, and the establishment of a system similar to that voluntarily entered into by the banks in New York, by which all balances are frequently settled. This would require all banks to send home for collection all the notes of others which they had received on deposit or in the payment of debts, and would enable each to obtain in the immediate community in which it was situated such a circulation as its credit and character would entitle it to. One of the great evils experienced, when bank paper constitutes the chief circulation, is its constant fluctuation. Distant rumors of the curtailment of banks at the centres of commerce create a panic, and other banks begin to withhold



their usual accommodation, to provide against a coming storm—the prices of property or produce are sometimes thus designedly affected, and while fortunes are secured to some, great sacrifices frequently occur to others. Such occurrences are highly detrimental to the transaction of legitimate business, and can only be prevented in the opinion of eminent writers upon currency by the infusion of a larger amount of specie into the circulation. The large monthly receipts of gold from California which have taken place for several years, make it possible without inconvenience to dispense with the use of small bills. This would insure to the poorer classes who are the most confiding and the least able to bear loss, at all times a positive consideration for their labor, and would confine the banks to the more legitimate business of furnishing facilities to the commercial classes.

My views upon this important subject were fully expressed in my message to your predecessors, to which I beg leave to call your attention, with the assurance that I shall concur in the passage of any measure which will invite capital to co-operate with our business men, if it be so guarded as to prevent the recurrence of such disasters as befel the community when the Government Stock Bank and a long list of others exploded.

#### THE USURY LAWS.

The Usury Laws of this State are based upon an erroneous principle and are entirely disregarded.

There is a market rate for money like that of any other commodity, which is increased or diminished in proportion to the supply. Any law which seeks to restrict the possessor of money from obtaining the price for it which the demand in the market will warrant, only discourages fair and open dealing, and makes the borrower pay a premium for the hazard of its violation.

#### UNITED STATES SENATOR.

The term of one of our Senators in Congress will expire on the third day of March next. The duty will devolve upon you within ten days from the commencement of the Session, to elect a successor.

#### KANSAS.

At the last session of the Legislature I felt it my duty to call attention to the strenuous efforts made by the general government to extend



the area and influence of slavery, and to the repeal of the Missouri Compromise by the last Congress. Without occupying your time with a repetition of the reasons I then presented for resisting the ambitious schemes, of the few comparatively, who are interested in the extension of that baleful element of society, I embrace the occasion emphatically to re-affirm them, and solicit for them your candid consideration. Events which have since transpired, which are now passing, and which are foreshadowed in the future, confirm the gloomy apprehensions which were inspired by the passage of the Kansas Nebraska act, and utter a voice of warning which no patriot—no lover of liberty and the right, and the privileges, secured by the Constitution of the United States, can disregard. As the bill itself was the work of Legislative craft, framed, or attempted to be framed, in such a manner as to enable the advocates of slavery extension, to insist that it authorized slavery in the territory, and those who dared not openly avow that object, to insist that it did not—thus presenting two opposite aspects to the country, but being in its visible purpose a fraud upon the Free States ; so has the enforcement of it by the present federal executive, and the instruments of his power, evinced the same spirit of fraud and injustice in which it had its birth. Scarcely had the bill become a law when the people of Missouri, inhabiting the borders, formed associations with the avowed purpose of making Kansas a slave-holding country, and of excluding and expelling all settlers who might not sympathise with them. To this end they early and unequivocally announced their intention to employ force. False and inflammatory rumors were put in circulation imputing to Free State settlers, the most criminal intentions, and among these the purpose to sow discontent among the slaves of Missouri, and to decoy them away from their masters. Unscrupulous, noisy and cunning demagogues performed the work of propagating calumny and false alarm, with such skill and perseverance, as to electrify not only the border population, but to attract to the scene throngs of reckless and lawless adventurers from the Slave States. In November, 1854, at the election of a delegate from the Territory to Congress, the different precincts were entered by bands of Missourians, all in favor of introducing slavery into the Territory, but none of them entitled to vote, who by intimidation and violence at the polls, usurped the elective franchise of the people and sent a delegate of their own choosing—so manifest was

the illegality of this choice that the House refused to admit him to a seat. But a far more serious usurpation was practiced upon the people, of the Territory, at the election held in March, 1855, for members of the Territorial Legislature ; that body to which the organic act gave the power to permit or prohibit slavery as they should think fit. The act declared in express terms, that the people of the Territory were left "perfectly free to form and regulate their own domestic institutions in their own way, subject only to the Constitution of the United States." And yet, although Kansas then contained not more than three thousand legal voters, a large majority of whom were unquestionably opposed to the admission of slavery, not less than 4,900 Missourians, having no more right to vote at the polls than had the inhabitants of any other State, entered the territory in armed bands, with cavalry and artillery, took possession of all the polls, save one, insulted, maltreated and drove away the peaceable residents who came to vote, voted themselves, and thus returned as members of the Legislature persons known only for their violent hostility to the Free State men.

The fact of this invasion and usurpation is placed beyond doubt by a mass of testimony which there is no attempt to discredit, and it furnishes to the country and the world the first instance where the will of an American community, professedly enjoying the right of self government, has been completely frustrated by violence. The fact stands, as a monument, of the dangers to be apprehended from the slave power, and no right thinking man can view it without the most fearful solicitude and alarm. This body of men assumed to legislate for Kansas. They enacted a code recognizing the legal existence of slavery there, and inflicting the severest penalties upon all who should act or even speak against it. A code whose atrocious provisions have been justly pronounced, even by the supporters of the Kansas-Nebraska act, as a "disgrace to the civilization of the age."

That, people from the free States should refuse to recognize the binding force of laws thus imposed upon them, and reject a magistracy to whose appointment they had not consented, and whose principles and conduct were hateful to their feelings, was to be expected—unless indeed the delusion was cherished that Northern men have no respect, either for their rights or for themselves. That they would not acquiesce in an election so manifestly fraudulent, nor in a course of legislation, which,

y violating the freedom of speech and the press, assailed the Constitution itself—and by prescribing odious test oaths and unheard-of disqualifications of voters and jurors, sought to annul the most vital provisions of the organic act, was as easy to predict as to know the character of Northern freemen. And yet the President of the United States, fully aware of the fraud and force employed at the election, and of the barbarous and unconstitutional character of the Legislature, has not scrupled to lend his sanction to both, by actually employing the military power as well as the appointing power, to consummate the scheme of forcing slavery into Kansas and dragooning the free State men into submission, or driving them out of the territory. We have no ground to presume that this scheme will be abandoned. The power which started, will still prosecute it, aiming as it does, under a claim of constitutional right, to extend slavery into all the territories of the United States. The contest between free labor and slave labor, between free society and slave society, will not probably terminate with the struggle in Kansas, whatever may be the result there. History teaches us that *privilege* never restrains its ambition to rule, nor abates a whit of its pretensions; and so long, as in our country, it can surround itself with flatterers and parasites, it will continue to struggle for enlargement and preponderance.

Meanwhile we should not be unmindful of the great importance of the question now pending in Kansas. It is not to be forgotten that it was once solemnly dedicated to freedom—that that pledge has been wantonly and ruthlessly withdrawn—that the authors of the faithless act have invited a competition between free state and slave state settlers to determine whether it shall, for the future, be the happy home for the free labor of the hardy pioneers of our own, and the oppressed and banished of other lands, or be blighted and cursed with human bondage—that on the part of the slave power this contest, which should have been a peaceful one, has been marked by acts of oppression and atrocity that would have disgraced a public enemy professing to be governed by the laws of war—that free state men have been deliberately murdered—peaceful families guilty of no crime save a dislike of slavery, forcibly driven from their homes by marauders, their houses burnt, or demolished, their effects plundered and their lands taken from them—that whole settlements of free state men have thus been broken up, robbed and dispersed—that others, entering the country have been stopped, their

arms and property taken from them, and they compelled to grapple with pinching want or to return to their friends as best they could—that for defending their lives and property against armed assailants of the opposite party, settlers from the free states, including our own, have been seized and charged with murder, and tried for that high offence, while until very recently, not one individual of the South Carolina, Georgia, Alabama, Mississippi or Missouri gangs that have infested the territory and been guilty of these outrages, has ever been apprehended for his crimes! Such has been the character for justice of the representatives of the slave power in Kansas. Let them not be surprised if they shall one day find that there is a retribution!

From information which is reliable, and facts which are notorious, it is evident that this unjust and cruel proscription of free State settlers is to be kept up. The propagandists of slavery know too well the value of the stake for which they are playing to forget an advantage or relax an effort—and although the settlers who are favorable to making Kansas a free State are probably much more numerous than the opposite party, yet numbers can avail but little while the power of the general government is exerted against them, and they are opposed, without the right to protect themselves, to the grossest prosecution and injustice. Every free State, nay the whole country, has a deep interest in this matter.

Our own State has contributed its full proportion of emigrants to Kansas. Many of them are now there, crippled in their resources, and reduced to destitution by the difficulties which surround them; but with their brethren from the other free States, they are bearing up bravely against the adverse current.

Shall we remain indifferent to their sufferings, their hopes—their patriotic devotion to the great principle of human liberty?

The people of this State, have at the recent Presidential election, by a majority unexampled in its history, passed their judgment upon the question of allowing slavery to go into Kansas, or elsewhere, upon soil now free. They have deliberately reiterated their condemnation of the repeal of the Missouri restriction, and of those of their public servants who, yielding to the demand of the slave power, gave the measure their support. They have condemned the barbarous policy pursued in Kansas. Their sympathies are awake to the trying and destitute situation of their brethren there. And I have the fullest confidence that some



measure authorized by the Constitution, calculated to relieve their necessities, to animate their hopes and to sustain their efforts, will meet the hearty approbation of our constituents. That emigrants from Michigan, thus situated in a federal territory, are beyond the reach of our protection, I cannot for a moment concede. Under the Federal Constitution, we cannot perhaps raise and arm men to protect them, nor is such a step contemplated or desired. But the right to minister to their wants, in food, clothing, and other necessary means,—the right to protect them from the rigors of winter, and the horrors of beggary and starvation, to which unbridled audacity, and unpunished crime under the ironical names of “law and order,” have exposed them, cannot be doubted. I therefore recommend the adoption of such measures of relief, as in your wisdom you may think fitting the occasion and worthy of the residents of a State whose soil was consecrated to freedom by the ordinance of 1787.

I had the honor of transmitting to our Senators in Congress, the Resolutions of instructions which were passed on the 26th Jan., 1855, respecting slavery in the Territory of the United States, and the Fugitive Slave Law of 1850, and they were by them presented to the Senate. I regret to say that although they have heretofore recognized the right of Legislative instruction, they have not thought proper thus far to comply with their requirements. Whatever doubt may have been entertained, at the time of their passage, as to their representing the deliberate judgment of the people of this State, must have been completely dissipated, by the strong condemnation which has been expressed of the Kansas-Nebraska Act, and of those who deemed it their duty to support and sustain it, at the recent Presidential election. I submit to your judgment the propriety of passing similar resolutions of instruction, and of again placing upon record, the fact, that whatever changes may have been going on in the minds of individuals or of politicians, the people of Michigan still earnestly cling to the principles of the ordinance of 1787,—that they still adhere to their own Legislative resolutions of 1847, so often reiterated since—“that Congress has the power, and that it is their duty to prohibit by legislative enactment the introduction or existence of slavery within any of the territories of the United States, now or hereafter to be acquired.”

The character of States, like that of individuals, is formed while in a state of pupillage. Those territories in which slavery has been prohibited



under the guardianship and protection of Congress, have invariably become free and prosperous States—and whenever that protection has been withdrawn from the territories, States have arisen, which are now suffering from the disgrace and blight of human bondage.

Gentlemen of the Legislature—high and responsible trusts have been confided to you by your constituents. Your acts will make a deep impression upon the future history of Michigan. I have the fullest confidence that you will contribute by the discharge of your delicate and responsible duties, to advance her destiny and make it glorious. And I shall cheerfully co-operate with you in the adoption of any measures which will tend to exalt the honor, or promote the prosperity, of our beloved State.

KINSLEY S. BINGHAM.

EXECUTIVE OFFICE, }  
*Lansing, January 7, 1857.* }